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**REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed October 4, 2006. In the Action, the Examiner notes that claims 1-14 and 26 are pending, of which claims 1-14 and 26 stand rejected. Claims 17-19 were previously withdrawn.

In view of the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Therefore, Applicants believe that this application is now in condition for allowance.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

**REJECTIONS****REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)****Claims 1-10 and 26**

The Examiner has rejected claims 1-10 and 26 under 35 U.S.C. §103 as being unpatentable over Taylor et al. U.S. Patent 6,289,376, hereinafter "Taylor") in view of Imanaka (European Patent No. EP0854610 hereinafter "Imanaka") and further in view of Sawicz et al. (U.S. Patent No. 5,889,775 hereinafter "Sawicz"). The rejection is respectfully traversed.

The Applicants respectfully submit that Taylor is not a proper reference against the Applicants' invention under 35 U.S.C. § 103(c)(1) because Taylor qualifies as a reference under 35 U.S.C. 102(e) and the subject matter of Taylor and Applicants' claimed invention were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, Diva Systems Corp. Specifically, Taylor is a patent application filed on July 29, 1999, and published on September 11, 2001 when the patent issued. Since the present

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application was filed on March 31, 2000, prior to the publication date of Taylor, Taylor would qualify only as a 102(e)/103(a) reference. Under 35 U.S.C. 103(c)(1), Taylor should be disqualified as a 103 reference against the present invention because of common ownership. A copy of the assignment to Diva Systems Corp of the present application is enclosed for the Examiner's reference.

Moreover, as discussed previously, neither Imanaka nor Sawicz mentions head-end controllers and the combination would not result in a number of head-end controllers coupled to each server module via at least two signal paths, wherein each communication between a head-end controller and a server module is coincidentally sent through the two signal paths as claimed. Thus, the combined teachings of Imanaka and Sawicz would not result in the claimed head-end controllers coupled to each server module via at least two signal paths, wherein each communication between a head-end controller and a server module is coincidentally sent through the two signal paths.

As such, Applicants submit that claim 1 is not obvious and fully satisfies the requirements under 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-14 and 26 depend, either directly or indirectly, from independent claim 1 and recite additional features thereof. As such, and for at least the same reasons discussed above, Applicants submit that these dependent claims also fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the rejection be withdrawn.

#### **Claim 11**

The Examiner has rejected claim 11 under 35 U.S.C. §103 as being unpatentable over Taylor in view of Imanaka, Sawicz, and further in view of Deitz et al. (U.S. Patent No. 6,578,158, hereinafter "Deitz"). The rejection is respectfully traversed.

As discussed above, Taylor is not a proper reference against the Applicants' invention under 35 U.S.C. 103(c)(1). Moreover, for the same reasons

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given above with respect to claim 1 and because Dietz is generally directed to computer memory systems and controlling redundant arrays of independent disks, claim 11 is also patentable over the combination of Imanaka, Sawicz, and Dietz. (Dietz, col. 1, lines 8-12). The computer memory system of Dietz is different than the claimed video distribution system. For example, the computer memory system lacks a head-end and subscriber equipment. Dietz fails to teach or suggest the claimed head-end controllers of the video distribution system. There is no motivation or suggestion in the disclosure of the computer memory system of Dietz or the other references cited to make a combination for the claimed video distribution system with a head-end and associated subscriber equipment. Therefore, Applicants respectfully request that the rejection be withdrawn.

#### **Claims 12-14**

The Examiner has rejected claims 12-14 under 35 U.S.C. §103 as being unpatentable over Taylor in view of Imanaka, Sawicz, Deitz and further in view of Miyamoto et al. (U.S. Patent No. 5,845,061, hereinafter "Miyamoto") The rejection is respectfully traversed.

As discussed above, Taylor is not a proper reference against the Applicants' invention under 35 U.S.C. 103(c)(1). Moreover, for the same reasons given above with respect to claims 1 and 11 and because Miyamoto is generally directed to a client server alternation control system reduced in influence caused by alternation control of a server conducted when a fault has occurred, claims 12-14 are also patentable over the combination of Imanaka, Sawicz, Dietz, and Miyamoto. (Miyamoto, col. 1, lines 6-9). The client server alternation control system of Miyamoto is different than the claimed video distribution system. For example, the client server alternation control system lacks a head-end and subscriber equipment. Miyamoto fails to teach or suggest the claimed head-end controllers of the video distribution system. There is no motivation or suggestion in the disclosure of the client server alternation control system of Miyamoto or the other references cited to make a combination for the claimed video distribution

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system with a head-end and associated subscriber equipment. Therefore, Applicants respectfully request that the rejection be withdrawn.

**Official Notices**

The Examiner has taken Official Notice at least on page 7, at least with respect to claim 12. Applicants respectfully traverse each Official Notice taken by the Examiner. Applicants respectfully submit that each Official Notice is erroneous at least because the claim limitations which are rejected using the Official Notice are believed to be not well known at least within the context of the independent claims from which these limitations depend.

The Examiner is respectfully requested to provide documentary evidence to substantiate each Official Notice (see MPEP 2144.03(C)). Without this documentary evidence, the Applicants respectfully submit that the Official Notices must be withdrawn.

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**CONCLUSION**

Thus, Applicants submit that the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

1/4/07

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